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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,670	11/02/2000	Norbert Kunze	PHD99,028	9125

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

DAVIS, DAVID DONALD

ART UNIT	PAPER NUMBER
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2652

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,670

Applicant(s)

KUNZE ET AL.

Examiner

David D. Davis

Art Unit

2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Art Unit: 2652

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Kato (US 6,288,982). With respect to claim 1, Kato shows in figure 1 a device for reading information stored on an information plate D3 and/or writing information on an information plate D3. The device, as shown in figure 1 includes a loading mechanism Md for loading and unloading the information plate D3. The loading mechanism includes at least one movable scanning lever 15 for detecting the position of the information plate D3. Lever 15 is designed to contact the plate D3 edge of the information plate. A position sensor 18 as described in column 6 lines 22-38 is provided for supplying position information on the position of the information plate in dependence on the position of the scanning lever 15.

Art Unit: 2652

With respect to claim 2, Kato also discloses in column 6, lines 22-28 that the position sensor 18 is constructed as a variable resistor and in that the scanning lever 15 changes the resistance of the variable resistor in dependence on the position of the information plate D3.

With respect to claim 3, Kato discloses in column 6, lines 22-28 that the position sensor 18 is constructed as an electronic encoder switch with lever 15 changing the code of the encoder switch depending on the position of plate D3.

3. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Nakamichi (US 6,633,517). See figure 1 and column 5, lines 15-54.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato (US 6,288,982) in view of Nakamichi (US 5,544,148). Kato shows in figure 1 a device for reading information stored on an information plate D3 and/or writing information on an information plate D3. The device, as shown in figure 1 includes a loading mechanism Md for loading and unloading the information plate D3. The loading mechanism includes at least one movable scanning lever 15 for detecting the position of the information plate D3. Lever 15 is designed to contact the plate D3 edge of the information plate. A position sensor 18 as described in column

Art Unit: 2652

6 lines 22-38 is provided for supplying position information on the position of the information plate in dependence on the position of the scanning lever 15.

However, Kato is silent as to a transport wheel drivable into rotation; pressable against the edged of the plate and journaled.

Nakamichi shows in figure 4, for example, and describes in column 4, lines 9-34 a transport wheel 4 is drivable into rotation; pressable against the edged of the plate and journaled.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide at least one guide of the loading mechanism of Kato with a transport wheel drivable into rotation; pressable against the edged of the plate and journaled as taught by Nakamichi. The rationale is as follows: one of ordinary skill in the art at the time the invention was made would have been motivated to provide a guide of a loading mechanism with a transport wheel drivable into rotation; pressable against the edged of the plate and journaled "to resiliently secure the disks." See column 4, lines 24-26 of Nakamichi.

Response to Arguments

6. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Davis whose telephone number is (703) 308-1503. The examiner can normally be reached on Mon., Tues., Thurs. and Fri. between 7:30-6:00.

Art Unit: 2652

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


David D. Davis
Primary Examiner
Art Unit 2652

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